

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2555

Introduced by Assembly Member Torrico

February 22, 2008

An act to ~~amend Section 56321 of~~ *add Section 56321.6 to* the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2555, as amended, Torrico. Special education: initial assessment: individualized education program.

Existing law requires that the parent or guardian of a pupil be given, in writing, a proposed assessment plan within 15 days of the referral of the pupil for an assessment for the development or revision of an individualized education program, ~~not counting certain days, as specified,~~ unless the parent or guardian agrees, in writing, to an extension. *Existing law requires that a copy of the notice of a parent's or guardian's rights be attached to the assessment plan.* Existing law establishes the California School for the Blind as part of the public school system of the state.

This bill would require that ~~information provided pursuant to the assessment process to the parent of an individual with exceptional needs who is blind or visually impaired specify that the parent, as part of his or her right to a fair hearing, may seek to demonstrate that~~ *the copy of the notice of parent rights include information regarding* the California School for the Blind ~~is the appropriate placement for his or her child, regardless of whether the local educational agency agrees with that placement.~~

By requiring local educational agencies to ~~provide~~ *include* additional information ~~as part of in the copy of the notice of parent rights attached to the assessment process plan~~, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56321.6 is added to the Education Code,
2 to read:
3 56321.6. The copy of the notice of parent rights shall include
4 information regarding the California School for the Blind.
5 ~~SECTION 1. Section 56321 of the Education Code is amended~~
6 to read:
7 56321. (a) ~~If an assessment for the development or revision~~
8 ~~of the individualized education program is to be conducted, the~~
9 ~~parent or guardian of the pupil shall be given, in writing, a proposed~~
10 ~~assessment plan within 15 days of the referral for assessment not~~
11 ~~counting days between the pupil's regular school sessions or terms~~
12 ~~or days of school vacation in excess of five schooldays from the~~
13 ~~date of receipt of the referral, unless the parent or guardian agrees,~~
14 ~~in writing, to an extension. However, in any event, the assessment~~
15 ~~plan shall be developed within 10 days after the commencement~~
16 ~~of the subsequent regular school year or the pupil's regular school~~
17 ~~term as determined by each district's school calendar for each~~
18 ~~pupil for whom a referral has been made 10 days or less prior to~~
19 ~~the end of the regular school year. In the case of pupil school~~
20 ~~vacations, the 15-day time shall recommence on the date that the~~
21 ~~pupil's regular schooldays reconvene. A copy of the notice of a~~
22 ~~parent's or guardian's rights shall be attached to the assessment~~
23 ~~plan. A written explanation of all the procedural safeguards under~~
24 ~~the federal Individuals with Disabilities Education Act (20 U.S.C.~~

1 ~~Sec. 1400 et seq.), and the rights and procedures contained in~~
2 ~~Chapter 5 (commencing with Section 56500), shall be included in~~
3 ~~the notice of a parent's or guardian's rights, including information~~
4 ~~on the procedures for requesting an informal meeting, prehearing~~
5 ~~mediation conference, mediation conference, or due process~~
6 ~~hearing; the timelines for completing each process; whether the~~
7 ~~process is optional; and the type of representative who may be~~
8 ~~invited to participate.~~

9 ~~(b) The proposed assessment plan given to parents or guardians~~
10 ~~shall meet all the following requirements:~~

11 ~~(1) Be in language easily understood by the general public.~~

12 ~~(2) Be provided in the native language of the parent or guardian~~
13 ~~or other mode of communication used by the parent or guardian,~~
14 ~~unless to do so is clearly not feasible.~~

15 ~~(3) Explain the types of assessments to be conducted.~~

16 ~~(4) State that no individualized education program will result~~
17 ~~from the assessment without the consent of the parent.~~

18 ~~(e) (1) The local educational agency proposing to conduct an~~
19 ~~initial assessment to determine if the child qualifies as an individual~~
20 ~~with exceptional needs shall make reasonable efforts to obtain~~
21 ~~informed consent from the parent of the child before conducting~~
22 ~~the assessment, in accordance with Section 1414(a)(1)(D) of Title~~
23 ~~20 of the United States Code.~~

24 ~~(2) If the parent of the child does not provide consent for an~~
25 ~~initial assessment, or the parent fails to respond to a request to~~
26 ~~provide the consent, the local educational agency may, but is not~~
27 ~~required to, pursue the initial assessment utilizing the procedures~~
28 ~~described in Section 1415 of Title 20 of the United States Code~~
29 ~~and in accordance with paragraph (3) of subdivision (a) of Section~~
30 ~~56501 and subdivision (e) of Section 56506.~~

31 ~~(3) In accordance with Section 300.300(a)(3)(ii) of Title 34 of~~
32 ~~the Code of Federal Regulations, the local educational agency does~~
33 ~~not violate its obligation under Section 300.111 and Sections~~
34 ~~300.301 to 300.311, inclusive, of Title 34 of the Code of Federal~~
35 ~~Regulations if it declines to pursue the assessment.~~

36 ~~(4) The parent or guardian shall have at least 15 days from the~~
37 ~~receipt of the proposed assessment plan to arrive at a decision. The~~
38 ~~assessment may begin immediately upon receipt of the consent.~~

39 ~~(d) Consent for initial assessment shall not be construed as~~
40 ~~consent for initial placement or initial provision of special~~

1 ~~education and related services to an individual with exceptional~~
2 ~~needs, pursuant to Section 1414(a)(1)(D)(i)(I) of Title 20 of the~~
3 ~~United States Code.~~

4 ~~(e) In accordance with Section 300.300(d)(1) of Title 34 of the~~
5 ~~Code of Federal Regulations, parental consent is not required~~
6 ~~before reviewing existing data as part of an assessment or~~
7 ~~reassessment, or before administering a test or other assessment~~
8 ~~that is administered to all children, unless before administration~~
9 ~~of that test or assessment, consent is required of the parents of all~~
10 ~~the children.~~

11 ~~(f) Pursuant to Section 1414(a)(1)(E) of Title 20 of the United~~
12 ~~States Code, the screening of a pupil by a teacher or specialist to~~
13 ~~determine appropriate instructional strategies for curriculum~~
14 ~~implementation shall not be considered to be an assessment for~~
15 ~~eligibility for special education and related services.~~

16 ~~(g) In accordance with Section 300.300(d)(5) of Title 34 of the~~
17 ~~Code of Federal Regulations, to meet the reasonable efforts~~
18 ~~requirement in subdivision (c), the local educational agency shall~~
19 ~~document its attempts to obtain parental consent using the~~
20 ~~procedures in subdivision (h) of Section 56341.5.~~

21 ~~(h) Information provided pursuant to the assessment process~~
22 ~~described in this section to the parent of an individual with~~
23 ~~exceptional needs who is blind or visually impaired shall specify~~
24 ~~that the parent, as part of his or her right to a fair hearing, may~~
25 ~~seek to demonstrate that the California School for the Blind is the~~
26 ~~appropriate placement for his or her child, regardless of whether~~
27 ~~the local educational agency agrees with that placement.~~

28 SEC. 2. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.